

105TH CONGRESS
2D SESSION

H. R. 3249

To provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1998

Mr. MICA (for himself, Mr. CUMMINGS, Mrs. MORELLA, Mr. PAPPAS, Mr. SESSIONS, Mr. GILMAN, Mr. LEACH, and Mr. FORD) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Retirement Coverage Corrections Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

- Sec. 3. Applicability.
- Sec. 4. Restriction relating to future corrections.
- Sec. 5. Irrevocability of elections.

TITLE I—DESCRIPTION OF RETIREMENT COVERAGE ERRORS TO WHICH THIS ACT APPLIES AND MEASURES FOR THEIR RECTIFICATION

Subtitle A—Employee Who Should Have Been FERS Covered, But Who Was Erroneously CSRS Covered or CSRS-Offset Covered Instead

- Sec. 101. Elections.
- Sec. 102. Effect of an election to be transferred from CSRS to FERS to correct a retirement coverage error.
- Sec. 103. Effect of an election to be transferred from CSRS-Offset to FERS to correct a retirement coverage error.
- Sec. 104. Effect of an election to be transferred from CSRS to CSRS-Offset to correct a retirement coverage error.
- Sec. 105. Effect of an election to be restored (or transferred) to CSRS-Offset after having been corrected to FERS from CSRS-Offset (or CSRS).

Subtitle B—Employee Who Should Have Been FERS Covered, CSRS-Offset Covered, or CSRS Covered, But Who Was Erroneously Social Security-Only Covered Instead

- Sec. 111. Elections.
- Sec. 112. Effect of an election to become FERS covered to correct the retirement coverage error.
- Sec. 113. Effect of an election to become CSRS-Offset covered to correct the retirement coverage error.
- Sec. 114. Effect of an election to become CSRS covered to correct the retirement coverage error.

Subtitle C—Employee Who Should Have Been Social Security-Only Covered, But Who Was Erroneously FERS Covered, CSRS-Offset Covered, or CSRS Covered Instead

- Sec. 121. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously FERS covered instead.
- Sec. 122. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS-Offset covered instead.
- Sec. 123. Uncorrected error: employee who should be Social Security-Only covered, but who is erroneously CSRS covered instead.
- Sec. 124. Corrected error: situations under sections 121–123.
- Sec. 125. Vested employees excepted from automatic exclusion.

Subtitle D—Employee Who Should Have Been CSRS Covered or CSRS-Offset Covered, But Who Was Erroneously FERS Covered Instead

- Sec. 131. Elections.
- Sec. 132. Effect of an election to be transferred from FERS to CSRS to correct a retirement coverage error.
- Sec. 133. Effect of an election to be transferred from FERS to CSRS-Offset to correct a retirement coverage error.
- Sec. 134. Effect of an election to be restored to FERS after having been corrected to CSRS.

- Sec. 135. Effect of an election to be restored to FERS after having been corrected to CSRS-Offset.
- Sec. 136. Disqualification of certain individuals to whom same election was previously available.

Subtitle E—Employee Who Should Have Been CSRS-Offset Covered, But Who Was Erroneously CSRS Covered Instead

- Sec. 141. Automatic transfer to CSRS-Offset.
- Sec. 142. Effect of transfer.

Subtitle F—Employee Who Should Have Been CSRS Covered, But Who Was Erroneously CSRS-Offset Covered Instead

- Sec. 151. Elections.
- Sec. 152. Effect of an election to be transferred from CSRS-Offset to CSRS to correct the retirement coverage error.
- Sec. 153. Effect of an election to be restored to CSRS-Offset after having been corrected to CSRS.

Subtitle G—Additional Provisions Relating to Government Agencies

- Sec. 161. Repayment required in certain situations.
- Sec. 162. Equitable sharing of amounts payable to or from the Government if more than one agency involved.
- Sec. 163. Provisions relating to the original responsible agency.

TITLE II—GENERAL PROVISIONS

- Sec. 201. Identification and notification requirements.
- Sec. 202. Individual appeal rights.
- Sec. 203. Information to be furnished by Government agencies to authorities administering this Act.
- Sec. 204. Social Security records.
- Sec. 205. Conforming amendments respecting Social Security coverage and OASDI taxes.
- Sec. 206. Regulations.
- Sec. 207. All elections to be approved by OPM.
- Sec. 208. Additional transfers to OASDI trust funds in certain cases.
- Sec. 209. Technical and conforming amendments.

TITLE III—OTHER PROVISIONS

- Sec. 301. Provisions to permit continued conformity of other Federal retirement systems.
- Sec. 302. Government contributions payable from the CSRDF.
- Sec. 303. Individual right of action preserved for amounts not otherwise provided for under this Act.

TITLE IV—TAX PROVISIONS

- Sec. 401. Tax provisions.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

1 (1) CSRS.—The term “CSRS” means the Civil
2 Service Retirement System.

3 (2) CSRDF.—The term “CSRDF” means the
4 Civil Service Retirement and Disability Fund.

5 (3) CSRS COVERED.—The term “CSRS cov-
6 ered”, with respect to any service, means service
7 that is subject to the provisions of subchapter III of
8 chapter 83 of title 5, United States Code, other than
9 those that apply only with respect to an individual
10 described in section 8402(b)(2) of such title.

11 (4) CSRS-OFFSET COVERED.—The term
12 “CSRS-Offset covered”, with respect to any service,
13 means service that is subject to the provisions of
14 subchapter III of chapter 83 of title 5, United
15 States Code, that apply with respect to an individual
16 described in section 8402(b)(2) of such title.

17 (5) EMPLOYEE.—The term “employee” means
18 any individual serving in an appointive or elective of-
19 fice or position in the executive, legislative, or judi-
20 cial branch of the Government who, by virtue of that
21 service, is permitted or required to be CSRS cov-
22 ered, CSRS-Offset covered, FERS covered, or Social
23 Security-Only covered.

24 (6) EXECUTIVE DIRECTOR.—The term “Execu-
25 tive Director of the Federal Retirement Thrift In-

1 vestment Board” or “Executive Director” means the
2 Executive Director appointed under section 8474 of
3 title 5, United States Code.

4 (7) FERS.—The term “FERS” means the
5 Federal Employees’ Retirement System.

6 (8) FERS COVERED.—The term “FERS cov-
7 ered”, with respect to any service, means service
8 that is subject to chapter 84 of title 5, United States
9 Code.

10 (9) GOVERNMENT.—The term “Government”
11 has the meaning given such term by section 8331(7)
12 of title 5, United States Code.

13 (10) OASDI TAXES.—The term “OASDI
14 taxes” means the OASDI employee tax and the
15 OASDI employer tax.

16 (11) OASDI EMPLOYEE TAX.—The term
17 “OASDI employee tax” means the tax imposed
18 under section 3101(a) of the Internal Revenue Code
19 of 1986 (relating to Old-Age, Survivors and Disabil-
20 ity Insurance).

21 (12) OASDI EMPLOYER TAX.—The term
22 “OASDI employer tax” means the tax imposed
23 under section 3111(a) of the Internal Revenue Code
24 of 1986 (relating to Old-Age, Survivors and Disabil-
25 ity Insurance).

1 (13) OASDI TRUST FUNDS.—The term
2 “OASDI trust funds” means the Federal Old-Age
3 and Survivors Insurance Trust Fund and the Fed-
4 eral Disability Insurance Trust Fund.

5 (14) PERIOD OF ERRONEOUS COVERAGE.—The
6 term “period of erroneous coverage” means, in the
7 case of a retirement coverage error, the period
8 throughout which retirement coverage is in effect
9 pursuant to such error (or would have been in effect,
10 but for such error).

11 (15) RETIREMENT COVERAGE DETERMINA-
12 TION.—The term “retirement coverage determina-
13 tion” means a determination by an employee or
14 agent of the Government as to whether a particular
15 type of Government service is CSRS covered, CSRS-
16 Offset covered, FERS covered, or Social Security-
17 Only covered.

18 (16) RETIREMENT COVERAGE ERROR.—The
19 term “retirement coverage error” means a retire-
20 ment coverage determination that, as a result of any
21 error, misrepresentation, or inaction on the part of
22 an employee or agent of the Government (including
23 an error as described in section 163(b)(2)), causes
24 an individual erroneously to be enrolled or not en-

1 rolled in a retirement system, as further described in
2 the applicable subtitle of title I.

3 (17) SOCIAL SECURITY-ONLY COVERED.—The
4 term “Social Security-Only covered”, with respect to
5 any service, means Government service that con-
6 stitutes employment under section 210 of the Social
7 Security Act (42 U.S.C. 410), and that—

8 (A) is subject to OASDI taxes; but

9 (B) is not subject to any retirement system
10 for Government employees (disregarding title II
11 of the Social Security Act).

12 (18) THRIFT SAVINGS FUND.—The term
13 “Thrift Savings Fund” means the Thrift Savings
14 Fund established under section 8437 of title 5,
15 United States Code.

16 **SEC. 3. APPLICABILITY.**

17 (a) IN GENERAL.—Subject to subsection (b), this Act
18 shall apply with respect to any retirement coverage error
19 that occurs before, on, or after the date of enactment of
20 this Act, excluding any error corrected within 1 year after
21 the date on which it occurs.

22 (b) LIMITATION.—Nothing in this Act shall affect
23 any retirement coverage or treatment accorded with re-
24 spect to any individual in connection with any period be-

1 ginning before the first day of the first applicable pay pe-
2 riod beginning on or after January 1, 1984.

3 **SEC. 4. RESTRICTION RELATING TO FUTURE CORREC-**
4 **TIONS.**

5 (a) IN GENERAL.—Except as otherwise provided in
6 this Act, any individual who, on or after the date of enact-
7 ment of this Act, becomes or remains affected by a retire-
8 ment coverage error may not be excluded from or made
9 subject to any retirement system for the sole purpose of
10 correcting such error.

11 (b) COORDINATION WITH OTHER LAWS.—

12 (1) IN GENERAL.—Nothing in this Act shall be
13 considered to preclude an election under the Federal
14 Employees' Retirement System Open Enrollment
15 Act of 1997 (Public Law 105–61; 111 Stat. 1318)
16 or any other voluntary retirement coverage election
17 authorized by statute.

18 (2) REGULATIONS.—The Office of Personnel
19 Management shall prescribe any regulations which
20 may be necessary to apply this Act in the case of
21 any individual who changes retirement coverage pur-
22 suant to a voluntary election made other than under
23 this Act.

1 **SEC. 5. IRREVOCABILITY OF ELECTIONS.**

2 Any election made (or deemed to have been made)
3 by an employee or any other individual under this Act
4 shall be irrevocable.

5 **TITLE I—DESCRIPTION OF RE-**
6 **TIREMENT COVERAGE ER-**
7 **RORS TO WHICH THIS ACT AP-**
8 **PLIES AND MEASURES FOR**
9 **THEIR RECTIFICATION**

10 **Subtitle A—Employee Who Should**
11 **Have Been FERS Covered, But**
12 **Who Was Erroneously CSRS**
13 **Covered or CSRS-Offset Cov-**
14 **ered Instead**

15 **SEC. 101. ELECTIONS.**

16 (a) **APPLICABILITY.**—This subtitle shall apply in the
17 case of any employee who—

18 (1) should be (or should have been) FERS cov-
19 ered but, as a result of a retirement coverage error,
20 is (or was) CSRS covered instead; or

21 (2) should be (or should have been) FERS cov-
22 ered but, as a result of a retirement coverage error,
23 is (or was) CSRS-Offset covered instead.

24 (b) **UNCORRECTED ERROR.**—If, at the time of mak-
25 ing an election under this section, the retirement coverage
26 error described in paragraph (1) or (2) of subsection (a)

1 (as applicable) has not been corrected, the employee af-
2 fected by such error may elect—

3 (1) to be FERS covered instead; or

4 (2) to remain (or instead become) CSRS-Offset
5 covered.

6 (c) CORRECTED ERROR.—If, at the time of making
7 an election under this section, the retirement coverage
8 error described in paragraph (1) or (2) of subsection (a)
9 (as applicable) has been corrected, the employee affected
10 by such error may elect—

11 (1) to be CSRS-Offset covered instead; or

12 (2) to remain FERS covered.

13 (d) DEFAULT RULE.—

14 (1) IN GENERAL.—If the employee is given
15 written notice in accordance with section 201 as to
16 the availability of an election under this section, but
17 does not make any such election within the 6-month
18 period beginning on the date on which such notice
19 is so given, the option under subsection (b)(2) or
20 (c)(2), as applicable, shall be deemed to have been
21 elected on the last day of such period.

22 (2) CSRS NOT AN OPTION.—Nothing in this
23 section shall be considered to afford an employee the
24 option of becoming or remaining CSRS covered.

1 (e) RETROACTIVE EFFECT.—An election under this
 2 section (including an election by default, and an election
 3 to remain covered by the retirement system by which the
 4 electing individual is covered as of the date of the election)
 5 shall be effective retroactive to the effective date of the
 6 retirement coverage error (as referred to in subsection (a))
 7 to which such election relates.

8 **SEC. 102. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 9 **FROM CSRS TO FERS TO CORRECT A RETIRE-**
 10 **MENT COVERAGE ERROR.**

11 (a) APPLICABILITY.—This section shall apply in the
 12 case of any employee affected by an error described in sec-
 13 tion 101(a)(1) who elects the option under section
 14 101(b)(1).

15 (b) DISPOSITION OF CONTRIBUTIONS TO THE
 16 CSRDF.—

17 (1) EMPLOYEE CONTRIBUTIONS.—

18 (A) TRANSFER TO OASDI TRUST FUNDS.—

19 There shall be transferred from the CSRDF to
 20 the OASDI trust funds an amount—

21 (i) equal to the amount of the OASDI
 22 employee tax that should have been de-
 23 ducted and withheld from the Federal
 24 wages of the employee for the period of er-
 25 roneous coverage involved; but

1 (ii) not to exceed the amount of the
2 employee's lump-sum credit attributable to
3 the period of erroneous coverage involved.

4 (B) RULE IF THERE ARE EXCESS CSRDF
5 CONTRIBUTIONS.—If the amount described in
6 subparagraph (A)(ii) exceeds the sum of—

7 (i) the amount described in subpara-
8 graph (A)(i), plus

9 (ii) the amount that should have been
10 deducted under section 8422 of title 5,
11 United States Code, from pay of such em-
12 ployee for the period of erroneous coverage
13 involved,

14 the excess shall be refunded to the employee.

15 (C) RULE IF CSRDF CONTRIBUTIONS ARE
16 INSUFFICIENT.—If the amount described in
17 subparagraph (A)(ii) is less than the sum of the
18 respective amounts described in clauses (i) and
19 (ii) of subparagraph (B), the shortfall shall be
20 made up (in such manner as the Director of the
21 Office of Personnel Management, with the con-
22 currence of the Commissioner of Social Secu-
23 rity, shall by regulation prescribe) by the agen-
24 cy in or under which the employee is then em-
25 ployed, out of amounts otherwise available in

1 the appropriation, fund, or account from which
2 any OASDI employer tax or contribution to the
3 CSRDF (as applicable) may be made.

4 (D) DEFINITION OF LUMP-SUM CREDIT.—

5 For purposes of this paragraph, the term
6 “lump-sum credit” has the meaning given such
7 term by section 8331 of title 5, United States
8 Code.

9 (2) GOVERNMENT CONTRIBUTIONS.—

10 (A) TRANSFER TO OASDI TRUST FUNDS.—

11 There shall be transferred from the CSRDF to
12 the OASDI trust funds the amount of the
13 OASDI employer tax that should have been
14 paid with respect to the employee for the period
15 of erroneous coverage involved.

16 (B) RULE IF THERE ARE EXCESS CSRDF
17 CONTRIBUTIONS.—If the total Government con-
18 tributions to the CSRDF that were made with
19 respect to the employee for the period of erro-
20 neous coverage involved exceed the sum of—

21 (i) the amount required to be trans-
22 ferred under subparagraph (A), plus

23 (ii) the amount that should have been
24 contributed by the Government under sec-
25 tion 8423 of title 5, United States Code,

1 for such employee with respect to such pe-
2 riod,
3 the excess shall be transferred to the agency in
4 or under which the employee is then employed,
5 to the credit of the appropriation, fund, or ac-
6 count from which any Government contribu-
7 tions to the CSRDF may be made (to remain
8 available until expended).

9 (C) RULE IF CSRDF CONTRIBUTIONS ARE
10 INSUFFICIENT.—If the total Government con-
11 tributions to the CSRDF that were made with
12 respect to the employee for the period of erro-
13 neous coverage involved are less than the sum
14 of the respective amounts described in clauses
15 (i) and (ii) of subparagraph (B), the shortfall
16 shall be made up by the agency in or under
17 which the employee is then employed, out of
18 amounts otherwise available in the appropria-
19 tion, fund, or account referred to in subpara-
20 graph (B) in such manner as the Director of
21 the Office of Personnel Management, with the
22 concurrence of the Commissioner of Social Se-
23 curity, shall by regulation prescribe.

24 (c) MAKEUP CONTRIBUTIONS TO THE THRIFT SAV-
25 INGS FUND.—

1 (1) IN GENERAL.—An employee to whom this
2 section applies is entitled to have contributed to the
3 Thrift Savings Fund on such employee’s behalf, in
4 addition to any regular employee or Government
5 contributions that would be permitted or required
6 for the year in which the contributions under this
7 subsection are made, an amount equal to the sum
8 of—

9 (A) the amount determined under para-
10 graph (2) with respect to such employee for the
11 period of erroneous coverage involved;

12 (B) an amount equal to the total contribu-
13 tions that should have been made for such em-
14 ployee under section 8432(c)(1) of title 5,
15 United States Code, for the period of erroneous
16 coverage involved;

17 (C) an amount equal to the total contribu-
18 tions that should have been made for such em-
19 ployee under section 8432(c)(2) of title 5,
20 United States Code, for the period of erroneous
21 coverage involved (taking into account both the
22 amount referred to in subparagraph (A) and
23 any contributions to the Thrift Savings Fund
24 actually made by such employee with respect to
25 the period involved); and

1 (D) an amount equal to lost earnings on
2 the amounts referred to in subparagraphs (A)
3 through (C), determined in accordance with
4 paragraph (3).

5 (2) AMOUNT BASED ON AVERAGE PERCENTAGE
6 OF PAY CONTRIBUTED BY EMPLOYEES DURING PE-
7 RIOD OF ERRONEOUS COVERAGE.—

8 (A) IN GENERAL.—The amount deter-
9 mined under this paragraph with respect to an
10 employee for a period of erroneous coverage
11 shall be equal to the amount of the contribu-
12 tions such employee would have made if, during
13 each calendar year in such period, the employee
14 had contributed the percentage of such employ-
15 ee's basic pay for such year specified in sub-
16 paragraph (B) (determined disregarding any
17 contributions actually made by such employee
18 with respect to the year involved).

19 (B) PERCENTAGE TO BE APPLIED.—The
20 percentage to be applied under this subpara-
21 graph in the case of any employee with respect
22 to a particular year is—

23 (i) the average percentage of basic
24 pay that was contributed for such year
25 under section 8432(a) of title 5, United

1 States Code, by FERS covered employees
2 who contributed to the Thrift Savings
3 Fund in such year; or

4 (ii) if such average percentage for the
5 year in question is unavailable, the average
6 percentage for the most recent year prior
7 to the year in question that is available.

8 (C) LIMITATIONS.—In no event may the
9 amount determined under this paragraph for an
10 individual with respect to a year exceed the
11 amount that, if added to the amount of the con-
12 tributions that were actually made by such indi-
13 vidual to the Thrift Savings Fund with respect
14 to such year (if any), would cause the total to
15 exceed—

16 (i) any limitation under section 415 or
17 any other provision of the Internal Reve-
18 nue Code of 1986 that would have applied
19 to such employee with respect to such year;
20 or

21 (ii) any limitation under section
22 8432(a) or any other provision of title 5,
23 United States Code, that would have ap-
24 plied to such employee with respect to such
25 year.

1 (3) LOST EARNINGS.—

2 (A) IN GENERAL.—Lost earnings on any
3 amounts referred to in subparagraph (A), (B),
4 or (C) of paragraph (1) shall, to the extent
5 those amounts are attributable to contributions
6 that should have been made with respect to a
7 particular TSP semiannual period, be deter-
8 mined in the same way as if those amounts had
9 in fact been timely contributed and allocated
10 among the TSP investment funds in accordance
11 with—

12 (i) the investment fund election that
13 was in effect for the employee with respect
14 to such semiannual period; or

15 (ii) if no such election was then in ef-
16 fect for the employee, the investment fund
17 election attributed to such employee with
18 respect to such semiannual period.

19 (B) INVESTMENT FUND ELECTION ATTRIB-
20 UTED.—For purposes of subparagraph (A)(ii),
21 the investment fund election attributed to an
22 employee with respect to a particular TSP
23 semiannual period is—

24 (i) the average percentage allocation
25 of TSP contributions among the TSP in-

1 vestment funds that was in effect, with re-
2 spect to the year in which such semiannual
3 period (or most of such period) occurs, for
4 all employees contributing to the Thrift
5 Savings Fund during such year; or

6 (ii) if such average percentage alloca-
7 tion for the year in question is unavailable,
8 the average percentage allocation for the
9 most recent year prior to the year in ques-
10 tion that is available.

11 (C) DEFINITION OF TSP SEMIANNUAL PE-
12 RIOD, ETC.—For purposes of this paragraph—

13 (i) the term “TSP semiannual period”
14 means a 6-month period under section
15 8432(a) of title 5, United States Code;

16 (ii) the term “investment fund elec-
17 tion” means a choice by a participant con-
18 cerning how contributions to the Thrift
19 Savings Plan shall be allocated among the
20 TSP investment funds;

21 (iii) the term “participant” means any
22 person with an account in the Thrift Sav-
23 ings Plan, or who would have an account
24 in the Thrift Savings Plan but for an em-

1 plying agency error (including an error as
 2 described in section 163(b)(2));

3 (iv) the term “TSP investment funds”
 4 means the C Fund, the F Fund, the G
 5 Fund, and any other investment fund in
 6 the Thrift Savings Plan created after De-
 7 cember 27, 1996; and

8 (v) the terms “C Fund”, “F Fund”,
 9 and “G Fund” refer to the funds described
 10 in paragraphs (1), (3), and (4), respec-
 11 tively, of section 8438(a) of title 5, United
 12 States Code.

13 (4) MAKEUP CONTRIBUTION TO BE MADE IN A
 14 LUMP SUM.—

15 (A) IN GENERAL.—Any amount to which
 16 an employee is entitled under this subsection
 17 shall be paid promptly by the agency in or
 18 under which the electing employee is (as of the
 19 date of the election) employed, in a lump sum,
 20 upon notification to such agency under sub-
 21 paragraph (B)(ii) as to the amount due.

22 (B) BOARD FUNCTIONS.—The regulations
 23 under paragraph (6) shall include provisions
 24 under which—

1 (i) each employing agency shall be re-
2 quired to determine and notify the Federal
3 Retirement Thrift Investment Board, in a
4 timely manner, as to any amounts under
5 paragraph (1)(A)–(C) owed by such agen-
6 cy; and

7 (ii) the Board shall, based on the in-
8 formation it receives from an agency under
9 clause (i), determine lost earnings on those
10 amounts and promptly notify such agency
11 as to the total amounts due from it under
12 this subsection.

13 (5) JUSTICES AND JUDGES; MAGISTRATES;
14 ETC.—The preceding provisions of this subsection
15 shall not apply in the case of any employee who,
16 pursuant to the election referred to in subsection
17 (a), becomes subject to section 8440a, 8440b,
18 8440c, or 8440d of title 5, United States Code.

19 (6) REGULATIONS.—The Executive Director of
20 the Federal Retirement Thrift Investment Board
21 shall prescribe any regulations necessary to carry
22 out this subsection.

1 **SEC. 103. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 2 **FROM CSRS-OFFSET TO FERS TO CORRECT A**
 3 **RETIREMENT COVERAGE ERROR.**

4 (a) **APPLICABILITY.**—This section shall apply in the
 5 case of any employee affected by an error described in sec-
 6 tion 101(a)(2) who elects the option under section
 7 101(b)(1).

8 (b) **EFFECT OF ELECTION.**—In the case of an em-
 9 ployee described in subsection (a), the following provisions
 10 shall apply:

11 (1) Section 102(b) (relating to disposition of
 12 contributions to the CSRDF), but disregarding pro-
 13 visions relating to transfers to OASDI trust funds.

14 (2) Section 102(c) (relating to makeup con-
 15 tributions to the Thrift Savings Fund).

16 **SEC. 104. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 17 **FROM CSRS TO CSRS-OFFSET TO CORRECT A**
 18 **RETIREMENT COVERAGE ERROR.**

19 (a) **APPLICABILITY.**—This section shall apply in the
 20 case of any employee affected by an error described in sec-
 21 tion 101(a)(1) who elects the option under section
 22 101(b)(2).

23 (b) **SAME AS IN THE CASE OF AN ELECTION TO RAT-**
 24 **IFY ERRONEOUS CSRS-OFFSET COVERAGE.**—

25 (1) **IN GENERAL.**—The effect of an election de-
 26 scribed in subsection (a) shall be as described in sec-

1 tion 101(b)(2), except that the provisions of section
2 102(b) shall also apply.

3 (2) APPROPRIATE PERCENTAGES TO BE USED
4 IN DETERMINING EMPLOYEE AND GOVERNMENT
5 CONTRIBUTIONS TO CSRDF.—For purposes of para-
6 graph (1), section 102(b) shall be applied by sub-
7 stituting “the relevant provisions of section
8 8334(k)” for “section 8422” and “section 8423”.

9 **SEC. 105. EFFECT OF AN ELECTION TO BE RESTORED (OR**
10 **TRANSFERRED) TO CSRS-OFFSET AFTER HAV-**
11 **ING BEEN CORRECTED TO FERS FROM CSRS-**
12 **OFFSET (OR CSRS).**

13 (a) APPLICABILITY.—This section shall apply in the
14 case of any employee affected by an error described in
15 paragraph (1) or (2) of section 101(a) who (after having
16 been corrected to FERS coverage) elects the option under
17 section 101(c)(1).

18 (b) DISPOSITION OF CONTRIBUTIONS TO THE
19 CSRDF.—

20 (1) IN GENERAL.—The provisions of section
21 102(b) shall apply in the case of an employee de-
22 scribed in subsection (a), subject to paragraph (2).

23 (2) NO TRANSFERS FOR AMOUNTS ALREADY
24 PAID INTO OASDI, ETC.—For purposes of paragraph

1 (1), section 102(b) shall be applied in conformance
2 with the following:

3 (A) NO DOUBLE PAYMENTS INTO OASDI.—

4 To the extent that the appropriate OASDI em-
5 ployee or employer tax has already been paid
6 for the total period involved (or any portion
7 thereof), reduce the respective amounts re-
8 quired by paragraphs (1)(A)(i) and (2)(A) of
9 section 102(b) accordingly.

10 (B) APPROPRIATE PERCENTAGES TO BE
11 USED IN DETERMINING EMPLOYEE AND GOV-
12 ERNMENT CONTRIBUTIONS TO CSRDF.—Sub-
13 stitute “the relevant provisions of section
14 8334(k)” for “section 8422” and “section
15 8423”.

16 (C) APPROPRIATE LUMP-SUM CREDIT TO
17 BE USED.—Substitute “8401” for “8331” in
18 paragraph (1)(D) thereof.

19 (D) PROVISIONS TO BE APPLIED WITH RE-
20 SPECT TO THE TOTAL PERIOD INVOLVED.—
21 Substitute “total period involved (as defined by
22 section 105)” for “period of erroneous coverage
23 involved”.

24 (c) DISPOSITION OF EXCESS TSP CONTRIBU-
25 TIONS.—

1 (1) GOVERNMENT CONTRIBUTIONS.—All Gov-
2 ernment contributions made on behalf of the em-
3 ployee to the Thrift Savings Fund that are attrib-
4 utable to the total period involved (including any
5 earnings thereon) shall be forfeited. Amounts so for-
6 feited shall be transferred to the agency in or under
7 which the employee is then employed, to the credit
8 of the appropriation, fund, or account from which
9 any Government contributions to the Thrift Savings
10 Fund may be made (to remain available until ex-
11 pended).

12 (2) EMPLOYEE CONTRIBUTIONS.—The election
13 referred to in subsection (a) shall not be taken into
14 account for purposes of any determination relating
15 to the disposition of any employee contributions to
16 the Thrift Savings Fund, attributable to the total
17 period involved, that were in excess of the maximum
18 amount that would have been allowable under appli-
19 cable provisions of subchapter III of chapter 83 of
20 title 5, United States Code (including any earnings
21 thereon).

22 (d) DEFINITION OF TOTAL PERIOD INVOLVED.—For
23 purposes of this section, the term “total period involved”
24 means the period beginning on the effective date of the
25 retirement coverage error involved and ending on the day

1 before the date on which the election described in sub-
2 section (a) is made.

3 **Subtitle B—Employee Who Should**
4 **Have Been FERS Covered,**
5 **CSRS-Offset Covered, or CSRS**
6 **Covered, But Who Was Erro-**
7 **neously Social Security-Only**
8 **Covered Instead**

9 **SEC. 111. ELECTIONS.**

10 (a) **APPLICABILITY.**—This subtitle shall apply in the
11 case of any employee who—

12 (1) should be (or should have been) FERS cov-
13 ered but, as a result of a retirement coverage error,
14 is (or was) Social Security-Only covered instead;

15 (2) should be (or should have been) CSRS-Off-
16 set covered but, as a result of a retirement coverage
17 error, is (or was) Social Security-Only covered in-
18 stead; or

19 (3) should be (or should have been) CSRS cov-
20 ered but, as a result of a retirement coverage error,
21 is (or was) Social Security-Only covered instead.

22 (b) **UNCORRECTED ERROR.**—If, at the time of mak-
23 ing an election under this section, the retirement coverage
24 error described in paragraph (1), (2), or (3) of subsection

1 (a) (as applicable) has not been corrected, the employee
2 affected by such error may elect—

3 (1)(A) in the case of an error described in sub-
4 section (a)(1), to be FERS covered as well;

5 (B) in the case of an error described in sub-
6 section (a)(2), to be CSRS-Offset covered as well; or

7 (C) in the case of an error described in sub-
8 section (a)(3), to be CSRS covered instead; or

9 (2) to remain Social Security-Only covered.

10 (c) CORRECTED ERROR.—

11 (1) IN GENERAL.—Not later than 6 months
12 after the date of enactment of this Act, there shall
13 be submitted to the Congress a proposal (including
14 any necessary draft legislation) to carry out the pol-
15 icy described in paragraph (2).

16 (2) POLICY.—Under the proposal, any employee
17 with respect to whom the retirement coverage error
18 described in paragraph (1), (2), or (3) of subsection
19 (a) (as applicable) has already been corrected, but
20 under terms less advantageous to the employee than
21 would have been the case under this Act, shall be af-
22 farded a reasonable opportunity to obtain treatment
23 comparable to the treatment afforded under this
24 Act.

1 (3) JOINT ACTION.—This subsection shall be
2 carried out by the Director of the Office of Person-
3 nel Management, in consultation with the Executive
4 Director of the Federal Retirement Thrift Invest-
5 ment Board and the Commissioner of Social Secu-
6 rity.

7 (d) DEFAULT RULE.—In the case of any employee
8 to whom subsection (b) applies, if the employee is given
9 written notice in accordance with section 201 as to the
10 availability of an election under this section, but does not
11 make any such election within the 6-month period begin-
12 ning on the date on which such notice is so given, the
13 option under subsection (b)(2) shall be deemed to have
14 been elected on the last day of such period.

15 (e) RETROACTIVE EFFECT.—An election under this
16 section (including an election by default, and an election
17 to remain covered by the retirement system by which the
18 electing individual is covered as of the date of the election)
19 shall be effective retroactive to the effective date of the
20 retirement coverage error (as referred to in subsection (a))
21 to which such election relates.

1 **SEC. 112. EFFECT OF AN ELECTION TO BECOME FERS COV-**
2 **ERED TO CORRECT THE RETIREMENT COV-**
3 **ERAGE ERROR.**

4 (a) **APPLICABILITY.**—This section shall apply in the
5 case of any employee affected by an error described in sec-
6 tion 111(a)(1) who elects the option under section
7 111(b)(1)(A).

8 (b) **MAKEUP CONTRIBUTIONS TO THE CSRDF.**—
9 Upon notification that an employee has made an election
10 under this section, the agency in or under which such em-
11 ployee is employed shall promptly pay to the CSRDF, in
12 a lump sum, an amount equal to the sum of—

13 (1) the amount that should have been deducted
14 and withheld from the pay of the employee for the
15 period of erroneous coverage involved under section
16 8422 of title 5, United States Code; and

17 (2) the Government contributions that should
18 have been paid for the period of erroneous coverage
19 involved under section 8423 of title 5, United States
20 Code.

21 (c) **MAKEUP CONTRIBUTIONS TO THE THRIFT SAV-**
22 **INGS FUND.**—Section 102(c) shall apply in the case of an
23 employee described in subsection (a).

1 **SEC. 113. EFFECT OF AN ELECTION TO BECOME CSRS-OFF-**
2 **SET COVERED TO CORRECT THE RETIRE-**
3 **MENT COVERAGE ERROR.**

4 (a) **APPLICABILITY.**—This section shall apply in the
5 case of any employee affected by an error described in sec-
6 tion 111(a)(2) who elects the option under section
7 111(b)(1)(B).

8 (b) **MAKEUP CONTRIBUTIONS TO THE CSRDF.**—
9 Upon notification that an employee has made an election
10 under this section, the agency in or under which such em-
11 ployee is employed shall promptly pay to the CSRDF, in
12 a lump sum, an amount equal to the sum of—

13 (1) the amount that should have been deducted
14 and withheld from the pay of the employee for the
15 period of erroneous coverage involved under section
16 8334 of title 5, United States Code; and

17 (2) the Government contributions that should
18 have been paid under section 8334 of title 5, United
19 States Code, for the period of erroneous coverage in-
20 volved.

21 (c) **MAKEUP CONTRIBUTIONS TO THE THRIFT SAV-**
22 **INGS FUND.**—

23 (1) **IN GENERAL.**—Makeup contributions to the
24 Thrift Savings Fund shall be made by the employing
25 agency in the same manner as described in section
26 102(c) (but disregarding subparagraphs (B) and (C))

1 of paragraph (1) thereof, and the other provisions of
 2 section 102(c) to the extent that they relate to those
 3 subparagraphs).

4 (2) APPROPRIATE PERCENTAGES, ETC. TO BE
 5 USED.—For purposes of paragraph (1), section
 6 102(c) shall be applied—

7 (A) by substituting “section 8351(b)” for
 8 “section 8432(a)” and by substituting “CSRS
 9 covered and CSRS-Offset covered” for “FERS
 10 covered” in paragraph (2)(B)(i) thereof; and

11 (B) by substituting “section 8351(b)(2)”
 12 for “section 8432(a)” in paragraph (2)(C)(ii)
 13 thereof.

14 **SEC. 114. EFFECT OF AN ELECTION TO BECOME CSRS COV-**
 15 **ERED TO CORRECT THE RETIREMENT COV-**
 16 **ERAGE ERROR.**

17 (a) APPLICABILITY.—This section shall apply in the
 18 case of any employee affected by an error described in sec-
 19 tion 111(a)(3) who elects the option under section
 20 111(b)(1)(C).

21 (b) MAKEUP CONTRIBUTIONS TO THE CSRDF.—

22 (1) IN GENERAL.—Upon notification that an
 23 employee has made an election under this section,
 24 the agency in or under which such employee is em-

1 employed shall promptly pay to the CSRDF, in a lump
2 sum, an amount equal to the sum of—

3 (A) the amount that should have been de-
4 ducted and withheld from the pay of the em-
5 ployee for the period of erroneous coverage in-
6 volved under section 8334 of title 5, United
7 States Code; and

8 (B) the Government contributions that
9 should have been paid under such section for
10 the period of erroneous coverage involved.

11 (2) AGENCY TO BE REIMBURSED FOR CERTAIN
12 AMOUNTS.—

13 (A) IN GENERAL.—The employee for whom
14 the payment under paragraph (1) is made shall
15 repay to the agency (referred to in paragraph
16 (1)) an amount equal to the OASDI employee
17 taxes refunded or refundable to such employee
18 for any portion of the period of erroneous cov-
19 erage involved (computed in such manner as the
20 Director of the Office of Personnel Manage-
21 ment, with the concurrence of the Commis-
22 sioner of Social Security, shall by regulation
23 prescribe), not to exceed the amount described
24 in paragraph (1)(A).

1 (B) RIGHT OF RECOVERY; WAIVER.—If the
2 employee fails to repay the amount required
3 under subparagraph (A), a sum equal to the
4 amount outstanding is recoverable by the Gov-
5 ernment from the employee (or the employee's
6 estate, if applicable) by—

7 (i) setoff against accrued pay, com-
8 pensation, amount of retirement credit, or
9 another amount due the employee from the
10 Government; and

11 (ii) such other method as is provided
12 by law for the recovery of amounts owing
13 to the Government.

14 The head of the agency concerned may waive,
15 in whole or in part, a right of recovery under
16 this paragraph if it is shown that recovery
17 would be against equity and good conscience or
18 against the public interest.

19 (C) TREATMENT OF AMOUNTS REPAID OR
20 RECOVERED.—Any amount repaid by, or recov-
21 ered from, an individual (or an estate) under
22 this paragraph shall be credited to the appro-
23 priation account from which the amount in-
24 volved was originally paid.

1 (c) MAKEUP CONTRIBUTIONS TO THE THRIFT SAV-
 2 INGS FUND.—In the case of an employee described in sub-
 3 section (a), makeup contributions to the Thrift Savings
 4 Fund shall be made in the same manner as described in
 5 section 113(c).

6 **Subtitle C—Employee Who Should**
 7 **Have Been Social Security-Only**
 8 **Covered, But Who Was Erro-**
 9 **neously FERS Covered, CSRS-**
 10 **Offset Covered, or CSRS Cov-**
 11 **ered Instead**

12 **SEC. 121. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
 13 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
 14 **WHO IS ERRONEOUSLY FERS COVERED IN-**
 15 **STEAD.**

16 (a) IN GENERAL.—Except as provided in section 125,
 17 this section shall apply in the case of any employee who
 18 should be Social Security-Only covered but, as a result of
 19 a retirement coverage error, is FERS covered instead.

20 (b) AUTOMATIC EXCLUSION FROM FERS.—An em-
 21 ployee described in subsection (a) shall not, by reason of
 22 the retirement coverage error described in subsection (a),
 23 be eligible to be treated as an individual who is FERS
 24 covered.

1 (c) DISPOSITION OF CONTRIBUTIONS TO THE
2 CSRDF.—

3 (1) EMPLOYEE CONTRIBUTIONS.—There shall
4 be paid to the employee, from the CSRDF, any
5 lump-sum credit to which such employee would be
6 entitled under section 8424 of title 5, United States
7 Code, to the extent attributable to the period of er-
8 roneous coverage involved.

9 (2) GOVERNMENT CONTRIBUTIONS.—There
10 shall be transferred from the CSRDF to the agency
11 in or under which the employee is then employed, to
12 the credit of the appropriation, fund, or account of
13 such agency from which any Government contribu-
14 tions to the CSRDF may be made (to remain avail-
15 able until expended), an amount equal to the Gov-
16 ernment contributions, attributable to such employee
17 for the period of erroneous coverage involved, that
18 were made under section 8423 of title 5, United
19 States Code.

20 (d) DISPOSITION OF TSP CONTRIBUTIONS.—

21 (1) GOVERNMENT CONTRIBUTIONS.—All Gov-
22 ernment contributions made on behalf of the em-
23 ployee to the Thrift Savings Fund that are attrib-
24 utable to the period of erroneous coverage involved
25 (including any earnings thereon) shall be forfeited

1 and transferred in the same manner as described in
 2 section 105(c).

3 (2) EMPLOYEE CONTRIBUTIONS.—Notwith-
 4 standing any other provision of this section or any
 5 other provision of law, any contributions made by
 6 the employee to the Thrift Savings Fund during the
 7 period of erroneous coverage involved (including any
 8 earnings thereon) shall be treated as if such em-
 9 ployee had then been correctly covered.

10 **SEC. 122. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
 11 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
 12 **WHO IS ERRONEOUSLY CSRS-OFFSET COV-**
 13 **ERED INSTEAD.**

14 (a) IN GENERAL.—Except as provided in section 125,
 15 this section shall apply in the case of any employee who
 16 should be Social Security-Only covered but, as a result of
 17 a retirement coverage error, is CSRS-Offset covered in-
 18 stead.

19 (b) AUTOMATIC EXCLUSION FROM CSRS-OFFSET.—
 20 An employee described in subsection (a) shall not, by rea-
 21 son of the retirement coverage error described in sub-
 22 section (a), be eligible to be treated as an individual who
 23 is CSRS-Offset covered.

24 (c) DISPOSITION OF CONTRIBUTIONS TO THE
 25 CSRDF.—

1 (1) EMPLOYEE CONTRIBUTIONS.—There shall
2 be paid to the employee, from the CSRDF, the
3 lump-sum credit to which such employee would be
4 entitled under section 8342 of title 5, United States
5 Code, to the extent attributable to the period of er-
6 roneous coverage involved.

7 (2) GOVERNMENT CONTRIBUTIONS.—There
8 shall be transferred from the CSRDF to the agency
9 in or under which the employee is then employed, to
10 the credit of the appropriation, fund, or account of
11 such agency from which any Government contribu-
12 tions to the CSRDF may be made (to remain avail-
13 able until expended), an amount equal to the Gov-
14 ernment contributions that were made under section
15 8334 of title 5, United States Code, and attributable
16 to such employee for the period of erroneous cov-
17 erage involved.

18 (d) DISPOSITION OF TSP CONTRIBUTIONS.—In the
19 case of an employee described in subsection (a), section
20 121(d)(2) shall apply.

1 **SEC. 123. UNCORRECTED ERROR: EMPLOYEE WHO SHOULD**
 2 **BE SOCIAL SECURITY-ONLY COVERED, BUT**
 3 **WHO IS ERRONEOUSLY CSRS COVERED IN-**
 4 **STEAD.**

5 (a) IN GENERAL.—Except as provided in section 125,
 6 this section shall apply in the case of any employee who
 7 should be Social Security-Only covered but, as a result of
 8 a retirement coverage error, is CSRS covered instead.

9 (b) AUTOMATIC EXCLUSION FROM CSRS.—An em-
 10 ployee described in subsection (a) shall not, by reason of
 11 the retirement coverage error described in subsection (a),
 12 be eligible to be treated as an individual who is CSRS cov-
 13 ered.

14 (c) DISPOSITION OF CONTRIBUTIONS TO THE
 15 CSRDF.—

16 (1) IN GENERAL.—In the case of an employee
 17 described in subsection (a), section 102(b) shall
 18 apply.

19 (2) IRRELEVANT PROVISIONS TO BE DIS-
 20 REGARDED.—For purposes of paragraph (1), section
 21 102(b) shall be applied disregarding paragraphs
 22 (1)(B)(ii), (1)(C)(ii), (2)(B)(ii), and (2)(C)(ii) there-
 23 of.

24 (d) DISPOSITION OF TSP CONTRIBUTIONS.—In the
 25 case of an employee described in subsection (a), section
 26 121(d)(2) shall apply.

1 **SEC. 124. CORRECTED ERROR: SITUATIONS UNDER SEC-**
2 **TIONS 121-123.**

3 (a) IN GENERAL.—Not later than 6 months after the
4 date of enactment of this Act, there shall be submitted
5 to the Congress a proposal (including any necessary draft
6 legislation) to carry out the policy described in subsection
7 (b).

8 (b) POLICY.—Under the proposal, any employee with
9 respect to whom the applicable retirement coverage error
10 (referred to in section 121, 122, or 123, as applicable)
11 has already been corrected, but under terms less advan-
12 tageous to the employee than would have been the case
13 under this Act, shall be afforded a reasonable opportunity
14 to obtain treatment comparable to the treatment afforded
15 under this Act.

16 (c) JOINT ACTION.—This section shall be carried out
17 by the Director of the Office of Personnel Management,
18 in consultation with the Executive Director of the Federal
19 Retirement Thrift Investment Board and the Commis-
20 sioner of Social Security.

21 **SEC. 125. VESTED EMPLOYEES EXCEPTED FROM AUTO-**
22 **MATIC EXCLUSION.**

23 (a) IN GENERAL.—Nothing in this subtitle shall, by
24 reason of any retirement coverage error, result in the auto-
25 matic exclusion of any employee from FERS, CSRS-Off-
26 set, or CSRS if, as of the date on which notice of such

1 error is given (in accordance with section 201), such em-
2 ployee's rights have vested under the retirement system
3 involved.

4 (b) VESTING.—For purposes of this section, vesting
5 of rights shall be considered to have occurred if, as of the
6 date as of which the determination is made, the employee
7 has completed at least 5 years of civilian service, taking
8 into account only creditable service under section 8332 or
9 8411 of title 5, United States Code.

10 (c) ELECTIONS.—

11 (1) ERRONEOUSLY FERS COVERED.—Any em-
12 ployee affected by an error described in section 121
13 who is determined under this section to satisfy sub-
14 section (b) may elect—

15 (A) to be treated in accordance with sec-
16 tion 121; or

17 (B) to remain FERS covered.

18 (2) OTHER CASES.—Any employee affected by
19 an error described in section 122 or 123 who is de-
20 termined under this section to satisfy subsection (b)
21 may elect—

22 (A) to be treated in accordance with sec-
23 tion 122 or 123 (as applicable); or

24 (B) to remain (or instead become) CSRS-
25 Offset covered.

1 (d) EFFECT OF AN ELECTION TO BE TRANSFERRED
2 FROM CSRS TO CSRS-OFFSET.—In the case of an em-
3 ployee affected by an error described in section 123 who
4 elects the option under subsection (c)(2)(B), the effect of
5 the election shall be the same as described in section 104.

6 (e) DEFAULT RULE.—If the employee does not make
7 any election within the 6-month period beginning on the
8 date on which the appropriate notice is given to such em-
9 ployee, the option under paragraph (1)(B) or (2)(B) of
10 subsection (c), as applicable, shall be deemed to have been
11 elected as of the last day of such period. Nothing in this
12 section shall be considered to afford an employee the op-
13 tion of becoming or remaining CSRS covered.

14 (f) RETROACTIVE EFFECT.—An election under this
15 section (including an election by default, and an election
16 to remain covered by the retirement system by which the
17 electing individual is covered as of the date of the election)
18 shall be effective retroactive to the effective date of the
19 retirement coverage error to which the election relates.

20 (g) SPECIAL RULE IN CASE OF DISABILITY.—If, as
21 of the date referred to in subsection (a), the employee is
22 entitled to receive an annuity under chapter 83 or 84 of
23 title 5, United States Code, based on disability, or com-
24 pensation under subchapter I of chapter 81 of such title
25 for injury to, or disability of, such employee, subsections

1 (a) and (b) shall be applied by substituting (for the date
 2 that would otherwise apply) the date as of which entitle-
 3 ment to such annuity or compensation terminates (if at
 4 all).

5 (h) NOTIFICATION.—Any notice under section 201
 6 shall include such additional information or other modi-
 7 fications as the Office of Personnel Management may by
 8 regulation prescribe in connection with the situations cov-
 9 ered by this subtitle, particularly as they relate to the con-
 10 sequences of being vested or not vested.

11 **Subtitle D—Employee Who Should**
 12 **Have Been CSRS Covered or**
 13 **CSRS-Offset Covered, But Who**
 14 **Was Erroneously FERS Covered**
 15 **Instead**

16 **SEC. 131. ELECTIONS.**

17 (a) APPLICABILITY.—This subtitle shall apply in the
 18 case of any employee who—

19 (1) should be (or should have been) CSRS cov-
 20 ered but, as a result of a retirement coverage error,
 21 is (or was) FERS covered instead; or

22 (2) should be (or should have been) CSRS-Off-
 23 set covered but, as a result of a retirement coverage
 24 error, is (or was) FERS covered instead.

1 (b) UNCORRECTED ERROR.—If, at the time of mak-
 2 ing an election under this section, the retirement coverage
 3 error described in paragraph (1) or (2) of subsection (a)
 4 (as applicable) has not been corrected, the employee af-
 5 fected by such error may elect—

6 (1)(A) in the case of an error described in sub-
 7 section (a)(1), to be CSRS covered instead; or

8 (B) in the case of an error described in sub-
 9 section (a)(2), to be CSRS-Offset covered instead; or
 10 (2) to remain FERS covered.

11 (c) CORRECTED ERROR.—If, at the time of making
 12 an election under this section, the retirement coverage
 13 error described in paragraph (1) or (2) of subsection (a)
 14 (as applicable) has been corrected, the employee affected
 15 by such error may elect—

16 (1) to be FERS covered instead; or

17 (2)(A) in the case of an error described in sub-
 18 section (a)(1), to remain CSRS covered; or

19 (B) in the case of an error described in sub-
 20 section (a)(2), to remain CSRS-Offset covered.

21 (d) DEFAULT RULE.—If the employee is given writ-
 22 ten notice in accordance with section 201 as to the avail-
 23 ability of an election under this section, but does not make
 24 any such election within the 6-month period beginning on
 25 the date on which such notice is so given, the option under

1 subsection (b)(2) or (c)(2), as applicable, shall be deemed
 2 to have been elected on the last day of such period.

3 (e) RETROACTIVE EFFECT.—An election under this
 4 section (including an election by default, and an election
 5 to remain covered by the retirement system by which the
 6 electing individual is covered as of the date of the election)
 7 shall be effective retroactive to the effective date of the
 8 retirement coverage error (as referred to in subsection (a))
 9 to which such election relates.

10 **SEC. 132. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 11 **FROM FERS TO CSRS TO CORRECT A RETIRE-**
 12 **MENT COVERAGE ERROR.**

13 (a) APPLICABILITY.—This section shall apply in the
 14 case of any employee affected by an error described in sec-
 15 tion 131(a)(1) who elects the option available to such em-
 16 ployee under section 131(b)(1)(A).

17 (b) MAKEUP CONTRIBUTIONS TO THE CSRDF.—

18 (1) IN GENERAL.—Upon notification that an
 19 employee has made an election under this section,
 20 the agency in or under which such employee is em-
 21 ployed shall promptly pay to the CSRDF, in a lump
 22 sum, an amount equal to the excess of—

23 (A) the amount by which—

24 (i) the amount that should have been
 25 deducted and withheld from the pay of the

1 employee for the period of erroneous cov-
2 erage involved under section 8334 of title
3 5, United States Code, exceeds

4 (ii) the amount that was actually de-
5 ducted and withheld from the pay of the
6 employee for the period of erroneous cov-
7 erage involved under section 8422 of such
8 title (and not refunded), over

9 (B) the amount by which—

10 (i) the amount of the Government
11 contributions actually made under section
12 8423 of such title with respect to the em-
13 ployee for the period of erroneous coverage
14 involved, exceeds

15 (ii) the amount of the Government
16 contributions that should have been made
17 under section 8334 of such title with re-
18 spect to the employee for the period of er-
19 roneous coverage involved.

20 (2) AGENCY TO BE REIMBURSED FOR CERTAIN
21 AMOUNTS.—

22 (A) IN GENERAL.—The employee for whom
23 the payment under paragraph (1) is made shall
24 repay to the agency (referred to in paragraph
25 (1)) an amount equal to the OASDI employee

1 taxes refunded or refundable to such employee
2 for any portion of the period of erroneous cov-
3 erage involved (computed in such manner as the
4 Director of the Office of Personnel Manage-
5 ment, with the concurrence of the Commis-
6 sioner of Social Security, shall by regulation
7 prescribe), not to exceed the amount described
8 in paragraph (1)(A).

9 (B) RIGHT OF RECOVERY; WAIVER.—If the
10 employee fails to repay the amount required
11 under subparagraph (A), a sum equal to the
12 amount outstanding is recoverable by the Gov-
13 ernment from the employee (or the employee's
14 estate, if applicable) by—

15 (i) setoff against accrued pay, com-
16 pensation, amount of retirement credit, or
17 another amount due the employee from the
18 Government; and

19 (ii) such other method as is provided
20 by law for the recovery of amounts owing
21 to the Government.

22 The head of the agency concerned may waive,
23 in whole or in part, a right of recovery under
24 this paragraph if it is shown that recovery

1 would be against equity and good conscience or
2 against the public interest.

3 (C) TREATMENT OF AMOUNTS REPAYED OR
4 RECOVERED.—Any amount repaid by, or recov-
5 ered from, an individual (or an estate) under
6 this paragraph shall be credited to the appro-
7 priation, fund, or account from which the
8 amount involved was originally paid.

9 **SEC. 133. EFFECT OF AN ELECTION TO BE TRANSFERRED**
10 **FROM FERS TO CSRS-OFFSET TO CORRECT A**
11 **RETIREMENT COVERAGE ERROR.**

12 (a) APPLICABILITY.—This section shall apply in the
13 case of any employee affected by an error described in sec-
14 tion 131(a)(2) who elects the option available to such em-
15 ployee under section 131(b)(1)(B).

16 (b) EFFECT.—The effect of an election referred to
17 in subsection (a) shall be substantially the same as that
18 described in section 105.

19 **SEC. 134. EFFECT OF AN ELECTION TO BE RESTORED TO**
20 **FERS AFTER HAVING BEEN CORRECTED TO**
21 **CSRS.**

22 (a) APPLICABILITY.—This section shall apply in the
23 case of any employee affected by an error described in sec-
24 tion 131(a)(1) who elects the option under section
25 131(c)(1).

1 (b) EFFECT.—The effect of an election referred to
2 in subsection (a) shall be substantially the same as that
3 described in section 102.

4 **SEC. 135. EFFECT OF AN ELECTION TO BE RESTORED TO**
5 **FERS AFTER HAVING BEEN CORRECTED TO**
6 **CSRS-OFFSET.**

7 (a) APPLICABILITY.—This section shall apply in the
8 case of any employee affected by an error described in sec-
9 tion 131(a)(2) who elects the option under section
10 131(c)(1).

11 (b) EFFECT.—The effect of an election referred to
12 in subsection (a) shall be substantially the same as that
13 described in section 103.

14 **SEC. 136. DISQUALIFICATION OF CERTAIN INDIVIDUALS TO**
15 **WHOM SAME ELECTION WAS PREVIOUSLY**
16 **AVAILABLE.**

17 Notwithstanding any other provision of this subtitle,
18 an election under this subtitle shall not be available in the
19 case of any individual to whom an election under section
20 846.204 of title 5 of the Code of Federal Regulations (as
21 in effect as of January 1, 1997) was made available in
22 connection with the same error pursuant to notification
23 provided in accordance with such section.

1 **Subtitle E—Employee Who Should**
2 **Have Been CSRS-Offset Cov-**
3 **ered, But Who Was Erroneously**
4 **CSRS Covered Instead**

5 **SEC. 141. AUTOMATIC TRANSFER TO CSRS-OFFSET.**

6 (a) **APPLICABILITY.**—This subtitle shall apply in the
7 case of any employee who should be (or should have been)
8 CSRS-Offset covered but, as a result of a retirement cov-
9 erage error, is (or was) CSRS covered instead.

10 (b) **UNCORRECTED ERROR.**—If the error has not
11 been corrected, the employee shall be treated in the same
12 way as if such employee had instead been CSRS-Offset
13 covered, effective retroactive to the effective date of such
14 error.

15 (c) **CORRECTED ERROR.**—If the error has been cor-
16 rected, the correction shall (to the extent not already car-
17 ried out) be made effective retroactive to the effective date
18 of such error.

19 **SEC. 142. EFFECT OF TRANSFER.**

20 The effect of a transfer under section 141 shall be
21 as set forth in regulations which the Office of Personnel
22 Management shall prescribe consistent with section 104.

1 **Subtitle F—Employee Who Should**
2 **Have Been CSRS Covered, But**
3 **Who Was Erroneously CSRS-Off-**
4 **set Covered Instead**

5 **SEC. 151. ELECTIONS.**

6 (a) **APPLICABILITY.**—This subtitle shall apply in the
7 case of any employee who should be (or should have been)
8 CSRS covered but, as a result of a retirement coverage
9 error, is (or was) CSRS-Offset covered instead.

10 (b) **UNCORRECTED ERROR.**—If, at the time of mak-
11 ing an election under this section, the retirement coverage
12 error described in subsection (a) has not been corrected,
13 the employee affected by such error may elect—

14 (1) to be CSRS covered instead; or

15 (2) to remain CSRS-Offset covered.

16 (c) **CORRECTED ERROR.**—If, at the time of making
17 an election under this section, the retirement coverage
18 error described in subsection (a) has been corrected, the
19 employee affected by such error may elect—

20 (1) to be CSRS-Offset covered instead; or

21 (2) to remain CSRS covered.

22 (d) **DEFAULT RULE.**—If the employee is given writ-
23 ten notice in accordance with section 201 as to the avail-
24 ability of an election under this section, but does not make
25 any such election within the 6-month period beginning on

1 the date on which such notice is so given, the option under
 2 subsection (b)(2) or (c)(2), as applicable, shall be deemed
 3 to have been elected on the last day of such period.

4 (e) RETROACTIVE EFFECT.—An election under this
 5 section (including an election by default, and an election
 6 to remain covered by the retirement system by which the
 7 electing individual is covered as of the date of the election)
 8 shall be effective retroactive to the effective date of the
 9 retirement coverage error (as referred to in subsection (a))
 10 to which such election relates.

11 **SEC. 152. EFFECT OF AN ELECTION TO BE TRANSFERRED**
 12 **FROM CSRS-OFFSET TO CSRS TO CORRECT**
 13 **THE RETIREMENT COVERAGE ERROR.**

14 (a) APPLICABILITY.—This section shall apply in the
 15 case of any employee affected by an error described in sec-
 16 tion 151(a) who elects the option available to such em-
 17 ployee under section 151(b)(1).

18 (b) MAKEUP CONTRIBUTIONS TO THE CSRDF.—

19 (1) IN GENERAL.—Upon notification that an
 20 employee has made an election under this section,
 21 the agency in or under which such employee is em-
 22 ployed shall promptly pay to the CSRDF, in a lump
 23 sum, an amount equal to the amount by which—

24 (A) the amount that should have been de-
 25 ducted and withheld from the pay of the em-

1 employee for the period of erroneous coverage in-
 2 volved under section 8334 of title 5, United
 3 States Code (by virtue of being CSRS covered),
 4 exceeds

5 (B) any nonrefunded amounts actually de-
 6 ducted and withheld from the pay of the em-
 7 ployee for the period of erroneous coverage in-
 8 volved under such section (pursuant to CSRS-
 9 Offset coverage).

10 (2) AGENCY TO BE REIMBURSED FOR CERTAIN
 11 AMOUNTS.—

12 (A) IN GENERAL.—The employee for whom
 13 the payment under paragraph (1) is made shall
 14 repay to the agency (referred to in paragraph
 15 (1)) an amount equal to the OASDI employee
 16 taxes refunded or refundable to such employee
 17 for any portion of the period of erroneous cov-
 18 erage involved (computed in such manner as the
 19 Director of the Office of Personnel Manage-
 20 ment, with the concurrence of the Commis-
 21 sioner of Social Security, shall by regulation
 22 prescribe), not to exceed the amount described
 23 in paragraph (1)(A).

24 (B) RIGHT OF RECOVERY; WAIVER.—If the
 25 employee fails to repay the amount required

1 under subparagraph (A), a sum equal to the
2 amount outstanding is recoverable by the Gov-
3 ernment from the employee (or the employee's
4 estate, if applicable) by—

5 (i) setoff against accrued pay, com-
6 pensation, amount of retirement credit, or
7 another amount due the employee from the
8 Government; and

9 (ii) such other method as is provided
10 by law for the recovery of amounts owing
11 to the Government.

12 The head of the agency concerned may waive,
13 in whole or in part, a right of recovery under
14 this paragraph if it is shown that recovery
15 would be against equity and good conscience or
16 against the public interest.

17 (C) TREATMENT OF AMOUNTS REPAYED OR
18 RECOVERED.—Any amount repaid by, or recov-
19 ered from, an individual (or an estate) under
20 this paragraph shall be credited to the appro-
21 priation, fund, or account from which the
22 amount involved was originally paid.

1 **SEC. 153. EFFECT OF AN ELECTION TO BE RESTORED TO**
 2 **CSRS-OFFSET AFTER HAVING BEEN COR-**
 3 **RECTED TO CSRS.**

4 (a) **APPLICABILITY.**—This section shall apply in the
 5 case of any employee affected by an error described in sec-
 6 tion 151(a) who elects the option available to such em-
 7 ployee under section 151(c)(1).

8 (b) **DISPOSITION OF CONTRIBUTIONS TO THE**
 9 **CSRDF.**—In the case of an employee described in sub-
 10 section (a), the provisions of section 102(b) shall apply,
 11 except that, in applying such provisions—

12 (1) “the applicable provisions of section 8334”
 13 shall be substituted for “section 8422” in paragraph
 14 (1)(B)(ii) thereof; and

15 (2) “the applicable provisions of section 8334”
 16 shall be substituted for “section 8423” in paragraph
 17 (2)(B)(ii) thereof.

18 **Subtitle G—Additional Provisions**
 19 **Relating to Government Agencies**

20 **SEC. 161. REPAYMENT REQUIRED IN CERTAIN SITUATIONS.**

21 (a) **IN GENERAL.**—An individual who previously re-
 22 ceived a payment ordered by a court or provided as a set-
 23 tlement of claim for losses resulting from a retirement cov-
 24 erage error shall not be entitled to make an election under
 25 this Act unless repayment of the amount so received by
 26 such individual is waived in whole or in part by the Office

1 of Personnel Management, and any amount not waived is
2 repaid.

3 (b) REGULATIONS.—Any repayment under this sec-
4 tion shall be made in accordance with regulations pre-
5 scribed by the Office.

6 **SEC. 162. EQUITABLE SHARING OF AMOUNTS PAYABLE TO**
7 **OR FROM THE GOVERNMENT IF MORE THAN**
8 **ONE AGENCY INVOLVED.**

9 The Office of Personnel Management shall by regula-
10 tion prescribe rules under which, in the case of an em-
11 ployee who has been employed in or under more than 1
12 agency since the date of the retirement coverage error in-
13 volved (and before its rectification under this Act), any
14 contributions or other amounts required to be paid to or
15 from the then current employing agency (other than lost
16 earnings under section 163(a)(2)) shall be equitably allo-
17 cated between or among the appropriate agencies.

18 **SEC. 163. PROVISIONS RELATING TO THE ORIGINAL RE-**
19 **SPONSIBLE AGENCY.**

20 (a) OBLIGATIONS OF THE ORIGINAL RESPONSIBLE
21 AGENCY.—

22 (1) EXPENSES FOR SERVICES OF FINANCIAL
23 ADVISOR.—The Office of Personnel Management
24 shall by regulation prescribe rules under which, in
25 the case of any employee eligible to make an election

1 under this Act, the original responsible agency (as
2 determined under succeeding provisions of this sec-
3 tion) shall pay (or make reimbursement for) any
4 reasonable expenses incurred by such employee for
5 services received from any licensed financial or legal
6 consultant or advisor in connection with such elec-
7 tion.

8 (2) SPECIAL RULES.—Such regulations shall
9 also include provisions to ensure that, to the extent
10 lost earnings under the Thrift Savings Fund are in-
11 volved in connection with a particular error, the
12 original responsible agency—

13 (A) shall pay (or reimburse any other
14 agency that pays) any amounts to the Thrift
15 Savings Fund representing lost earnings with
16 respect to such error; and

17 (B) shall be entitled to receive (directly
18 from the Thrift Savings Fund or through trans-
19 fer from another agency) any amounts paid out
20 of the Thrift Savings Fund representing a re-
21 fund of lost earnings to which the Government
22 is entitled with respect to such error.

23 (b) ORIGINAL RESPONSIBLE AGENCY DEFINED.—
24 For purposes of this Act, the term “original responsible

1 agency”, with respect to a retirement coverage error af-
 2 fecting an employee, means—

3 (1) except in the situation described in para-
 4 graph (2), the agency determined by the Office of
 5 Personnel Management to have made the initial re-
 6 tirement coverage error (including one made before
 7 January 1, 1984); or

8 (2) if the error is attributable, in whole or in
 9 part, to an erroneous regulation promulgated by the
 10 Office of Personnel Management, such Office.

11 (c) PROCEDURES FOR IDENTIFYING THE ORIGINAL
 12 RESPONSIBLE AGENCY.—

13 (1) IN GENERAL.—For purposes of this section,
 14 the original responsible agency, in any situation to
 15 which this section applies, shall be identified by the
 16 Office of Personnel Management in accordance with
 17 regulations which the Office shall prescribe.

18 (2) FINALITY.—A determination made by the
 19 Office under this subsection shall be final and not
 20 subject to any review.

21 (d) IF ORIGINAL RESPONSIBLE AGENCY NO LONGER
 22 EXISTS.—If the agency which (before the application of
 23 this subsection) is identified as the original responsible
 24 agency no longer exists (whether because of a reorganiza-
 25 tion or otherwise)—

1 (1) the successor agency (as determined under
2 regulations prescribed by the Office) shall be treated
3 as the original responsible agency; or

4 (2) if none, this section shall be applied by sub-
5 stituting the CSRDF for the original responsible
6 agency.

7 (e) SOURCE OF PAYMENTS IF ERROR DUE TO ERRO-
8 NEOUS OPM REGULATIONS.—In any case in which the
9 Office of Personnel Management is the original respon-
10 sible agency by reason of subsection (b)(2), any amounts
11 payable to or from the Office under this section shall be
12 payable to or from the CSRDF.

13 **TITLE II—GENERAL PROVISIONS**

14 **SEC. 201. IDENTIFICATION AND NOTIFICATION REQUIRE-** 15 **MENTS.**

16 (a) IN GENERAL.—The Office of Personnel Manage-
17 ment shall prescribe regulations under which Government
18 agencies shall take such measures as may be necessary
19 to ensure that all individuals who are (or have been) af-
20 fected by a retirement coverage error giving rise to any
21 election or automatic change in retirement coverage under
22 this Act shall be promptly identified and notified in ac-
23 cordance with this section.

1 (b) MATTER TO BE INCLUDED IN NOTICE TO INDIVIDUALS.—Any notice furnished under this section shall
2 be made in writing and shall include at least the following:

4 (1) DESCRIPTION OF ERROR.—A description of
5 the error involved, including a clear and concise explanation as to why the original retirement coverage
6 determination was erroneous, citations to (and a summary description of) the pertinent provisions of
7 law, and how that determination should instead have
8 been made.
10

11 (2) METHOD FOR RECTIFICATION.—How the
12 error is to be rectified under this Act, including
13 whether rectification will be achieved through an
14 automatic change in retirement coverage (and, if so,
15 the time, form, and manner in which that change
16 will be effected) or an election.

17 (3) ELECTION PROCEDURES, ETC.—If an election is provided under this Act, all relevant information as to how such an election may be made, the
18 options available, the differences between those respective options (as further specified in succeeding
19 provisions of this subsection), and the consequences
20 of failing to make a timely election.
23

24 (4) ACCRUED BENEFITS, ETC.—With respect to
25 the (or each) retirement system by which the indi-

vidual is then covered (disregarding the Thrift Savings Plan), and to the extent applicable:

(A) A brief summary of any benefits accrued.

(B) The amount of employee contributions made to date and the effect of any applicable disposition rules relating thereto (including provisions relating to excess amounts or shortfalls).

(C) The amount of any Government contributions made to date and the effect of any applicable disposition rules relating thereto (including provisions relating to excess amounts or shortfalls).

(5) THRIFT SAVINGS FUND.—With respect to the Thrift Savings Fund, the balance that then is (or would be) credited to the individual's account depending on the option chosen, with any such balance to be shown both in the aggregate and broken down by—

(A) individual contributions,

(B) automatic (1 percent) Government contributions, and

(C) matching Government contributions,

1 including lost earnings on each and the extent to
2 which any makeup contributions or forfeitures would
3 be involved.

4 (6) OASDI BENEFITS.—Such information re-
5 garding benefits under title II of the Social Security
6 Act as the Commissioner of Social Security consid-
7 ers appropriate.

8 (7) OTHER INFORMATION.—Any other informa-
9 tion that the Director of the Office of Personnel
10 Management may by regulation prescribe after con-
11 sultation with the Executive Director of the Federal
12 Retirement Thrift Investment Board and such other
13 agency heads as the Director considers appropriate,
14 including any appeal rights available to the individ-
15 ual.

16 (c) COMPARISONS.—Any amounts required to be in-
17 cluded under subsection (b)(4) shall, with respect to the
18 respective retirement systems involved, be determined—

19 (1) as of the date the retirement coverage error
20 was corrected (if applicable);

21 (2) as of the then most recent date for which
22 those benefits and amounts are ascertainable, as-
23 suming no change in retirement coverage; and

1 (3) as of the then most recent date for which
2 those benefits and amounts are ascertainable, as-
3 suming the alternative option is chosen.

4 (d) PAST ERRORS.—All measures required under this
5 section shall, with respect to errors preceding the date
6 specified in section 206(e) (relating to the effective date
7 for all regulations prescribed under this Act), be completed
8 no later than December 31, 2000.

9 **SEC. 202. INDIVIDUAL APPEAL RIGHTS.**

10 (a) IN GENERAL.—An individual aggrieved by a final
11 determination under this Act shall be entitled to appeal
12 such determination to the Merit Systems Protection Board
13 under section 7701 of title 5, United States Code.

14 (b) NOTIFICATION APPEALS.—The Office of Person-
15 nel Management shall by regulation establish procedures
16 under which individuals may bring an appeal to the Office
17 with respect to any failure to have been properly notified
18 in accordance with section 201. A final determination
19 under this subsection shall be appealable under subsection
20 (a).

21 **SEC. 203. INFORMATION TO BE FURNISHED BY GOVERN-**
22 **MENT AGENCIES TO AUTHORITIES ADMIN-**
23 **ISTERING THIS ACT.**

24 (a) APPLICABILITY.—The authorities identified in
25 this subsection are:

1 (1) The Director of the Office of Personnel
2 Management.

3 (2) The Commissioner of Social Security.

4 (3) The Executive Director of the Federal Re-
5 tirement Thrift Investment Board.

6 (b) **AUTHORITY TO OBTAIN INFORMATION.**—Each
7 authority identified in subsection (a) may secure directly
8 from any department or agency of the United States infor-
9 mation necessary to enable such authority to carry out its
10 responsibilities under this Act. Upon request of the au-
11 thority involved, the head of the department or agency in-
12 volved shall furnish that information to the requesting au-
13 thority.

14 (c) **LIMITATION; SAFEGUARDS.**—Each of the respec-
15 tive authorities under subsection (a)—

16 (1) shall request only such information as that
17 authority considers necessary; and

18 (2) shall establish, by regulation or otherwise,
19 appropriate safeguards to ensure that any informa-
20 tion obtained under this section shall be used only
21 for the purpose authorized.

22 **SEC. 204. SOCIAL SECURITY RECORDS.**

23 Notwithstanding any limitations in section 205 of the
24 Social Security Act regarding the modification of wage
25 records maintained by the Commissioner of Social Secu-

1 rity for purposes of title II of such Act, the Commissioner
 2 of Social Security shall modify the wage record of each
 3 employee affected by a retirement coverage error to
 4 change, add, or delete any entry regarding service as an
 5 employee to the extent necessary to carry out the purposes
 6 of this Act or the Social Security Act.

7 **SEC. 205. CONFORMING AMENDMENTS RESPECTING SO-**
 8 **CIAL SECURITY COVERAGE AND OASDI**
 9 **TAXES.**

10 (a) SOCIAL SECURITY COVERAGE.—Section
 11 210(a)(5)(H) of the Social Security Act (42 U.S.C.
 12 410(a)(5)(H)) is amended—

13 (1) in clause (i) by striking “or” at the end;

14 (2) in clause (ii) by striking the semicolon and
 15 inserting “, or”; and

16 (3) by adding at the end the following:

17 “(iii)(I) described in section 111(a)(3)
 18 of the Federal Retirement Coverage Cor-
 19 rections Act, on or after the effective date
 20 of an election (or deemed election) by such
 21 individual under section 111(b)(2) of such
 22 Act,

23 “(II) described in section 131(a)(1) of
 24 such Act, on or after the effective date of
 25 an election (or deemed election) by such in-

1 dividual under subsection (b)(2) or (c)(1)
2 of section 131 of such Act, or
3 “(III) described in section 151(a) of
4 such Act, on or after the effective date of
5 an election (or deemed election) by such in-
6 dividual under subsection (b)(2) or (c)(1)
7 of section 151 of such Act;”.

8 (b) OASDI TAXES.—Section 3121(b)(5)(H) of the
9 Internal Revenue Code of 1986 is amended—

- 10 (1) in clause (i) by striking “or” at the end;
11 (2) in clause (ii) by striking the semicolon and
12 inserting “, or”; and
13 (3) by adding at the end the following:

14 “(iii)(I) described in section 111(a)(3)
15 of the Federal Retirement Coverage Cor-
16 rections Act, on or after the effective date
17 of an election (or deemed election) by such
18 individual under section 111(b)(2) of such
19 Act,

20 “(II) described in section 131(a)(1) of
21 such Act, on or after the effective date of
22 an election (or deemed election) by such in-
23 dividual under subsection (b)(2) or (c)(1)
24 of section 131 of such Act, or

1 “(III) described in section 151(a) of
2 such Act, on or after the effective date of
3 an election (or deemed election) by such in-
4 dividual under subsection (b)(2) or (c)(1)
5 of section 151 of such Act;”.

6 **SEC. 206. REGULATIONS.**

7 (a) IN GENERAL.—Any regulations necessary to
8 carry out this Act shall be prescribed by the Director of
9 the Office of Personnel Management, the Executive Direc-
10 tor of the Federal Retirement Thrift Investment Board,
11 the Commissioner of Social Security, the Secretary of the
12 Treasury, and any other appropriate authority, with re-
13 spect to matters within their respective areas of jurisdic-
14 tion.

15 (b) MATTERS TO BE INCLUDED.—The regulations
16 prescribed by the Director of the Office of Personnel Man-
17 agement shall include at least the following:

18 (1) FORMER EMPLOYEES, ANNUITANTS, AND
19 SURVIVOR ANNUITANTS.—

20 (A) IN GENERAL.—Provisions under which,
21 to the maximum extent practicable and in ap-
22 propriate circumstances, any election available
23 to an employee under subtitle A, B, D, or F of
24 title I shall be available to a former employee,
25 annuitant, or survivor annuitant.

1 (B) SUBTITLE C SITUATIONS.—Provisions
2 under which subtitle C of title I shall apply in
3 the case of a former employee.

4 (C) SUBTITLE E SITUATIONS.—Provisions
5 under which the purposes of this paragraph
6 shall be carried with respect to any situation
7 under subtitle E of title I.

8 (2) FORMER SPOUSES.—Provisions under which
9 appropriate notification shall be afforded to any
10 former spouse affected by a change in retirement
11 coverage pursuant to this Act.

12 (3) PROCEDURAL REQUIREMENTS.—Provisions
13 establishing the procedural requirements in accord-
14 ance with which any determinations under this Act
15 (not otherwise addressed in this Act) shall be made,
16 in conformance with the requirements of this Act.

17 (4) AUTHORITY TO MAKE ACTUARIAL REDUC-
18 TION IN ANNUITY BY REASON OF CERTAIN UNPAID
19 AMOUNTS.—Provisions under which any payment re-
20 quired to be made by an individual to the Govern-
21 ment in order to make an election under this Act
22 which remains unpaid may be made by a reduction
23 in the appropriate annuity or survivor annuity. The
24 reduction shall, to the extent practicable, be de-
25 signed so that the present value of the future reduc-

1 tion is actuarially equivalent to the amount so re-
2 quired.

3 (c) DEFINITIONS.—For purposes of this section—

4 (1) the term “annuitant” means any individual
5 who is an annuitant as defined by section 8331(9)
6 or 8401(2) of title 5, United States Code; and

7 (2) the term “former employee” includes any
8 former employee who satisfies the service require-
9 ment for title to a deferred annuity under chapter
10 83 or 84 of such title 5 (as applicable), but—

11 (A) has not attained the minimum age re-
12 quired for title to such an annuity; or

13 (B) has not filed claim therefor.

14 (d) COORDINATION RULE.—In prescribing regula-
15 tions to carry out this Act, the Director of the Office of
16 Personnel Management shall consult with—

17 (1) the Administrative Office of the United
18 States Courts;

19 (2) the Clerk of the House of Representatives;

20 (3) the Sergeant at Arms and Doorkeeper of
21 the Senate; and

22 (4) other appropriate officers or authorities.

23 (e) EFFECTIVE DATE.—All regulations necessary to
24 carry out this Act shall take effect as of the first day of

1 the first month beginning after the end of the 6-month
2 period beginning on the date of enactment of this Act.

3 **SEC. 207. ALL ELECTIONS TO BE APPROVED BY OPM.**

4 Notwithstanding any other provision of this Act, no
5 election under this Act (other than an election by default)
6 may be given effect until the Office of Personnel Manage-
7 ment has determined, in writing, that such election is in
8 compliance with the requirements of this Act.

9 **SEC. 208. ADDITIONAL TRANSFERS TO OASDI TRUST FUNDS**

10 **IN CERTAIN CASES.**

11 If the Commissioner of Social Security determines
12 that the payment of the OASDI taxes described in this
13 Act did not result in a credit to the OASDI trust funds
14 of an equal amount, the Commissioner of Social Security
15 shall notify the Secretary of the Treasury of the amount
16 of any shortfall. Promptly upon receiving such notifica-
17 tion, the Secretary of the Treasury shall transfer an
18 amount equal to such shortfall from the general fund of
19 the Treasury to the OASDI trust funds.

20 **SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) AMENDMENT RELATING TO LIMITATION ON
22 SOURCES FROM WHICH CONTRIBUTIONS TO THE THRIFT
23 SAVINGS FUND ARE ALLOWED.—Section 8432(h) of title
24 5, United States Code, is amended by striking “title.” and

1 inserting “title or the Federal Retirement Coverage Cor-
2 rections Act.”.

3 (b) DESCRIPTION OF AMOUNTS COMPRISING THE
4 THRIFT SAVINGS FUND.—Section 8437(b) of title 5,
5 United States Code, is amended by striking “expenses.”
6 and inserting “expenses), as well as contributions under
7 the Federal Retirement Coverage Corrections Act (and
8 lost earnings made up under such Act).”.

9 (c) ADMINISTRATIVE EXPENSES.—

10 (1) THRIFT SAVINGS PLAN.—Section 8437(d)
11 of title 5, United States Code, is amended by insert-
12 ing “(including the provisions of the Federal Retire-
13 ment Coverage Corrections Act that relate to this
14 subchapter)” after “this subchapter”.

15 (2) CSRS, CSRS-OFFSET, FERS.—Section
16 8348(a)(2) of title 5, United States Code, is amend-
17 ed by striking “statutes;” and inserting “statutes
18 (including the provisions of the Federal Retirement
19 Coverage Corrections Act that relate to this sub-
20 chapter);”.

21 (3) MSPB.—Section 8348(a)(3) of title 5,
22 United States Code, is amended by striking “title.”
23 and inserting “title and the Federal Retirement Cov-
24 erage Corrections Act.”.

1 **TITLE III—OTHER PROVISIONS**

2 **SEC. 301. PROVISIONS TO PERMIT CONTINUED CONFORM-**
3 **ITY OF OTHER FEDERAL RETIREMENT SYS-**
4 **TEMS.**

5 (a) FOREIGN SERVICE.—Sections 827 and 851 of the
6 Foreign Service Act of 1980 (22 U.S.C. 4067 and 4071)
7 shall apply with respect to this Act in the same manner
8 as if this Act were part of—

9 (1) the Civil Service Retirement System, to the
10 extent this Act relates to the Civil Service Retire-
11 ment System; and

12 (2) the Federal Employees' Retirement System,
13 to the extent this Act relates to the Federal Employ-
14 ees' Retirement System.

15 (b) CENTRAL INTELLIGENCE AGENCY.—Sections
16 292 and 301 of the Central Intelligence Agency Retire-
17 ment Act (50 U.S.C. 2141 and 2151) shall apply with re-
18 spect to this Act in the same manner as if this Act were
19 part of—

20 (1) the Civil Service Retirement System, to the
21 extent this Act relates to the Civil Service Retire-
22 ment System; and

23 (2) the Federal Employees' Retirement System,
24 to the extent this Act relates to the Federal Employ-
25 ees' Retirement System.

1 **SEC. 302. GOVERNMENT CONTRIBUTIONS PAYABLE FROM**
2 **THE CSRDF.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of this Act or any other provision of law, all amounts
5 for which any Government agency would otherwise be lia-
6 ble under this Act shall instead be paid from the CSRDF,
7 subject to subsection (b).

8 (b) EXCEPTIONS.—This section shall not apply with
9 respect to any amount for which any Government agency
10 would otherwise be liable—

11 (1) by reason of section 301; or

12 (2) by reason of any retirement coverage error
13 as to which the notification required under section
14 201 is not given before January 1, 2003.

15 (c) AMORTIZATION.—For purposes of section 8348(f)
16 of title 5, United States Code, any unfunded liability cre-
17 ated by this section (as determined by the Office of Per-
18 sonnel Management) shall be considered a new benefit
19 payable from the CSRDF.

20 **SEC. 303. INDIVIDUAL RIGHT OF ACTION PRESERVED FOR**
21 **AMOUNTS NOT OTHERWISE PROVIDED FOR**
22 **UNDER THIS ACT.**

23 Nothing in this Act shall preclude an individual from
24 bringing a claim against the Government of the United
25 States which such individual may have under section
26 1346(b) or chapter 171 of title 28, United States Code,

1 or any other provision of law (except to the extent the
2 claim is for any amounts otherwise provided for under this
3 Act).

4 **TITLE IV—TAX PROVISIONS**

5 **SEC. 401. TAX PROVISIONS.**

6 (a) PLAN QUALIFICATION.—No retirement plan of
7 the United States (or any agency thereof) shall fail to be
8 treated as a qualified plan under the Internal Revenue
9 Code of 1986 by reason of any action taken under this
10 Act.

11 (b) TRANSFERS.—For purposes of the Internal Reve-
12 nue Code of 1986, no amount shall be includible in the
13 gross income of any individual by reason of any direct
14 transfer under this Act between funds or any Government
15 contribution under this Act to any fund or account.

16 (c) DISTRIBUTION OF EXCESS CSRS CONTRIBU-
17 TIONS.—Section 72(t) of the Internal Revenue Code of
18 1986 (relating to 10-percent additional tax on early dis-
19 tributions from qualified retirement plans) shall not apply
20 to the distribution of the excess described in section
21 102(b)(1)(B) of this Act or to any other refund paid under
22 this Act from the Civil Service Retirement and Disability
23 Fund.

